



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/024,520

12/21/2001

Jacobus M. Lemmens

ADP-019US

2171

34610

7590

05/15/2006

FLESHNER & KIM, LLP

P.O. BOX 221200

CHANTILLY, VA 20153

EXAMINER

AZPURU, CARLOS A

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/024,520	Applicant(s) LEMMENS ET AL.	
	Examiner Carlos A. Azpuru	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 3-10, 12, 35-37, 39-46, 49 and 51 is/are pending in the application.
- 4a) Of the above claim(s) 44-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10,12,35-37,39-43 and 49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

Receipt is acknowledged of the appeal brief filed 01/20/2006. A review of file history necessitated reopening of the prosecution.

The following is a new rejection of the claims:

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3-10, 12, 35-37, 39-43 and 49 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicant claims that the invention is a pharmaceutically tablet formulation comprising a pharmaceutically acceptable excipient and an amlodipine free base from the group consisting of crystalline form I, crystalline form II, or mixtures thereof, with an average residue of amlodipine on the tablet punch of 0.7 ug cm per tablet or less.

Art Unit: 1615

However, applicant's specification states that the **tablet leaves an average residue on the tablet punch** of 0.7 ug cm per tablet or less. The claim would appear to say that only amlodipine makes up the residue. However, the specification is clear that the residue is in part also due to the tablet excipients used in the formulation, and not amlodipine alone. As such, this is considered new matter.

It is additionally the criticality of this punch value is questioned because the declaration filed 12/21/2001 seems to indicate that crystalline free base form II has a punch value of 2.93 which is much higher than the claimed 0.7 ug cm per tablet or less.

Clarification and correction is required.

The following rejections are maintained in this action (The substance of the rejections is cited in the prior office actions):

The rejection of claims 1, 3-10, 12, 35-37, 39-43 and 49 under 35 USC 103(a) over US Patent 6,057,344 (Young).

The rejection of claims 1, 3-10, 12, 35-37, 39-43, and 49 under 35 USC 103(a) over US Patent 5,155,120 (Lazar) in combination with US Patent No 4,879,303 (Davidson).

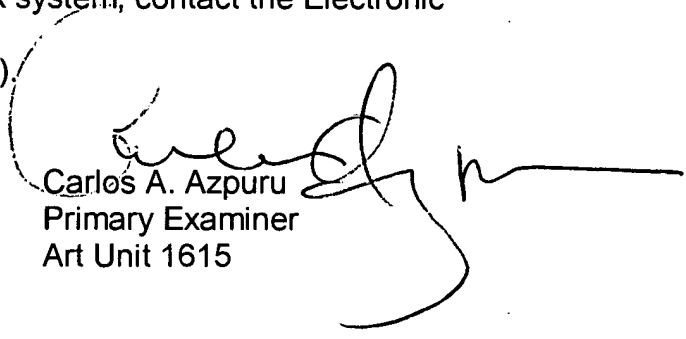
The rejection of claims 1, 3-10, 12, 35-37, 39-43 and 49 under 35 USC 103(a) over US Patent 5,155,120 (Lazar) in combination with US Patent 6,057,344 (Young).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos A. Azpuru whose telephone number is (571) 272-0588. The examiner can normally be reached on Tu-Fri, 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Art Unit: 1615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Carlos A. Azpuru  
Primary Examiner  
Art Unit 1615

ca



MICHAEL P. WOODWARD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600